

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SABRIN JEFFERY BURRIS,

Defendant-Appellant.

UNPUBLISHED
February 19, 2004

No. 243736
Wayne Circuit Court
LC No. 01-007951-01

Before: Cooper, P.J., and O’Connell and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his plea-based convictions for unarmed robbery, MCL 750.530, and assault with intent to do great bodily harm, MCL 750.84. We affirm.

On appeal, defendant first argues that the trial court violated a sentence agreement by imposing restitution, where no mention of restitution was made in the sentence evaluation.

In *People v Schluter*, 204 Mich App 60, 65-66; 514 NW2d 489 (1994), this Court held that where a sentencing agreement was silent as to restitution, the agreement bars restitution if the trial court accepts the plea. However, in *People v Ronowski*, 222 Mich App 58, 60; 564 NW2d 466 (1997), the Court held that *Schluter* only applies to plea agreements negotiated prior to May 1, 1994. The restitution statute was amended as of that date, making restitution mandatory rather than discretionary. *Id.* Therefore, a defendant is foreclosed from claiming that he was unaware it would be ordered. Nor can he claim that its imposition was not contemplated during the bargaining process. *Id.* at 61. Absent any contrary discussion, defendant should have known that restitution would be ordered in this case, and he was not misled by the sentence evaluation.

Defendant also argues that he was denied his right to allocution at sentencing. MCR 6.425(D)(2)(c) provides that the court must allow the defendant the opportunity to advise the court of any circumstances that should be considered in sentencing. In *People v Petit*, 466 Mich 624, 628; 648 NW2d 193 (2002), the Supreme Court found that the requirement was met when after defense counsel allocuted, the court asked if there was “anything further” before it imposed sentence. Although the trial court did not specifically ask the defendant if she had anything to say, the Supreme Court found that defendant was given a chance to speak on her own behalf, satisfying the court rule. *Id.*

After counsel's argument, but prior to imposing sentence, the court asked if there was anything further. Counsel responded that there was not, and defendant was silent. Defendant was given sufficient opportunity to allocute to satisfy the court rule. *Petit, supra*.

Affirmed.

/s/ Jessica R. Cooper
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood